

Cross-border surrogacy in Asia – the view from New Zealand

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Surrogacy statistics for Aotearoa New Zealand



- Since 2002, 18 of 700 reported adoptions (4%) involve surrogacy
- In 2012-2013, Child Youth & Family reported 154 adoptions; (8%) were surrogate-born
- Ethics Committee on Assisted Reproductive Technology (ECART) reported 8-25 applications for clinic-assisted surrogacy per year between 2005-2012
- Māori are less likely to engage in surrogacy than others
(L Anderson et al, 'The practice of surrogacy in New Zealand' (2012) 52(3) *ANZJOG* 253)

Surrogacy regulation in Aotearoa New Zealand

- Status of Children Act 1969
 - s17: woman who gives birth is mother of the child
- Adoption Act 1955/Adoption (Intercountry) Act 1997
 - Adoption processes through Family Court
 - Payment or reward in consideration of adoption prohibited (s25 1955 Act)
- Human Assisted Reproductive Technology Act 2004
 - Prohibits commercial surrogacy and related advertising (ss14-15)
 - Requires ECART approval for IVF of a surrogate (s16)
- No regulation of surrogacy not involving a fertility clinic
- No dedicated immigration laws

Re DMW & KW [2012] NZFC 2915

- Intended parents (Mr and Mrs W) from NZ
- Donor egg from niece
- Child born in Thailand to Thai surrogate
- Thai birth certificate: Mr W is father and surrogate is mother
- Mr and Mrs W apply for visa to bring child to NZ
- Immigration NZ required DNA test – no genetic link
- Identity of genetic parents unknown
- Mr and Mrs W apply to adopt child, with consent of surrogate
- Issue = habitual residence of child
- Determined that child not habitually resident in NZ
- Adoption needs to take place in Thailand

Issues arising

- Delays if something goes wrong
- Interactivity of immigration law and family law
- Genetic identity of child
- Control of embryos
- “Intentional parenthood”
- Biological connection

Thank you

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